



Department of Environmental Quality

To protect, conserve, and enhance the Quality of Wyoming's
environment for the benefit of current and future generations



Mark Gordon, Governor



Todd Parfitt, Director

January 14, 2022

Stephanie DeJong
Wastewater Section Chief
US EPA – Region 8
1595 Wynkoop Street
Denver, CO 80202-1129

RE: RESPONSE TO COMMENTS RELATED TO PROPOSED MODIFICATION OF WYOMING
POLLUTANT DISCHARGE ELIMINATION SYSTEM (WYPDES) **PERMIT WY0002062**
(Aethon – Moneta Divide)

Dear Ms. DeJong:

The Wyoming Department of Environmental Quality, Water Quality Division (WQD) has reviewed and considered your agency's comments related to the above referenced draft permit modification. This permit modification was included in the October 2021 WYPDES public notice, and was issued on January 14, 2022. Listed below are WQD's responses to your comments. Also, a copy of the final signed permit has been emailed to you as a reference.

Comment 1: *"Page 1 of the Statement of Basis (SoB), item 3) states that the draft permit modification will 'Remove effluent limits and sampling requirements for Radium 226, Barium, and Zinc based on the site-specific effluent data collected within and below...' The SoB does not have sufficient justification or rationale for the decision-making used to determine the removal of limits and sampling requirements and ensure antibacksliding requirements have been met (per 40 C.F.R. §124.56 and § 122.44(l)(2)). Incorporate information in the SoB that summarizes the comparison of the effluent data to the water quality standards (WQS) for justification to remove these requirements from the permit, and include information to support the applicable antibacksliding exclusion."*

Response: The Statement of Basis has been updated with additional supporting information relating to WDEQ's reasonable potential analysis for Radium, Barium and Zinc at this facility, pursuant to NPDES regulations in 40 CFR § 122.44(d)(1)(i) – (iii) and WYPDES regulations in Chapter 2, Section 5(c)(iii)(C) of the Wyoming Water Quality Rules and Regulations. Additionally, a requirement for ongoing monitoring of Radium and Zinc has been added at location DMP1 (Alkali Creek).

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Comment 2: *“Page 1 of the SoB, item 4) indicates that the draft permit modification will “Remove routine sampling requirements for Aluminum, Arsenic, Beryllium, Cadmium, Chromium, Copper, Lead, Mercury, Nickel, Selenium, Silver, and Thallium... Sampling data from the facility confirms that the effluent concentrations of these constituents are well below water quality standard thresholds...” The SoB does not have sufficient justification or rationale for the decision-making used to determine the removal of these sampling requirements and ensure antibacksliding requirements have been met (per 40 C.F.R. §124.56) and § 122.44(l)(2)). Incorporate information in the SoB that summarizes the comparison of the effluent data to the WQS for justification to remove these requirements from the permit, and include information to support the applicable antibacksliding exclusion.”*

Response: The Statement of Basis has been updated with additional supporting information relating to WDEQ’s reasonable potential analysis for the above referenced twelve trace metals at this facility, pursuant to NPDES regulations in 40 CFR § 122.44(d)(1)(i) – (iii) and WYPDES regulations in Chapter 2, Section 5(c)(iii)(C) of the Wyoming Water Quality Rules and Regulations. Results for these 12 metals in the effluent indicated concentrations below or near lab detection levels, along with low variability of concentrations. Additionally, antibacksliding applies specifically to less stringent effluent limits in a permit renewal, and does not apply to removal of monitoring requirements for permit parameters that did not have established effluent limits in the previous permit.

Comment 3: *“Page 8 of the SoB indicates that annual acute whole effluent toxicity (WET) tests shall only be performed on grab samples taken from each outfall “which discharges on eight (8) or more days within a calendar year.” This requirement is also reflected in Part I.A.3.a of the draft permit. Additionally, a footnote associated with the permitted temperature limit in the effluent limit table, in Part I.A.a.3 of the draft permit, states:*

“Temperature effluent limit only applies to outfalls that discharge on eight (8) or more days within a calendar year... Outfalls which have only seven discharge days or less during a calendar year are not required to be measured for temperature...”

The SoB does not contain a clear justification or rationale for the decision-making used to determine these 8-day provisions for WET acute testing or temperature limits (per 40 C.F.R. §124.56)... Additionally, WDEQ is using a general minimum discharge time period (i.e. 8 days or more) in the draft permit for WET and temperature monitoring requirements. This does not account for the volume of discharge and whether it would reach the receiving water. Permitting an outfall discharge flow volume (e.g. “de minimus” volume) for these discharges would be more appropriate and protective for the receiving water. This will help ensure that WET and temperature monitoring/testing requirements are applied to all discharge volumes with the potential to reach receiving waters, regardless of the duration of the discharge.”

Response: The draft modification had proposed changes to WET testing and temperature monitoring requirements, relating to sampling after a minimum number of discharging days at the outfalls. That change has been stricken, and de minimus discharges are now addressed for all permit sampling requirements (including chemical parameter sampling). Clarification has been added to the permit, stipulating that any discharges reaching Alkali Creek must be sampled. Any discharges not reaching Alkali Creek are not required to be sampled. Alkali Creek is the uppermost water of the state below the outfalls.

Thank you for your comments. If you have any further questions, please contact me at (307) 777-5504.

Sincerely,



Jason Thomas
Wyoming Department of Environmental Quality
Water Quality Division